UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MING EN WANG,

Plaintiff,

-v-

HAIYING REN
a/k/a Michael Chen
a/k/a Michael Ren,

Defendant.

19-CV-5310 (JPO)

OPINION AND ORDER

J. PAUL OETKEN, District Judge:

Plaintiff Ming En Wang brought this action against Defendant Haiying Ren, claiming violations of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* ("FLSA") and New York Labor Law ("NYLL"). (Dkt. No. 1 ("Compl.").) Plaintiff's counsel filed this action in an attempt to pursue claims against Haiying Ren as a defendant after he failed to name Ren in a timely manner in a virtually identical lawsuit before this Court, *Wang v. Yong Lee Inc. et al.*, 17-cv-9582 ("*Wang I*").

Plaintiff has moved for reconsideration of this Court's November 20, 2020 opinion and order dismissing this action. For the reasons that follow, Plaintiff's motion for reconsideration is denied.

I. Background

The Court presumes familiarity with the background of this case and the related case, *Wang I*, as described in this Court's opinion and order dated November 20, 2020. (*See* ECF No. 34.)

II. Legal Standard

"Motions for reconsideration are . . . committed to the sound discretion of the district court." *Liberty Media Corp. v. Vivendi Universal, S. A.*, 861 F. Supp. 2d 262, 265 (S.D.N.Y. 2012)). While "a party may not advance new facts, issues or arguments not previously presented to the Court," *Nat'l Union Fire Ins. Co. v. Stroh Cos.*, 265 F.3d 97, 115 (2d Cir. 2001), reconsideration may be granted because of "an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice," *Hollander v. Members of the Bd. of Regents*, 524 Fed. App'x. 727, 729 (2d Cir. 2013). "The standard for granting . . . a motion [for reconsideration] is strict." *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995). "[R]econsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked — matters . . . that might reasonably be expected to alter the conclusion reached by the court." *Id*.

III. Discussion

Plaintiff argues that the Court erred in concluding that the Defendant here was in "privity" with the Defendants in *Wang I*, including Jing Yang, Defendant's wife. He argues that the Court mistakenly described their relationship as that of employer and employee, when in fact Ren and Yang are "co-employers."

It makes no difference whether Defendant Ren was a co-employer of Plaintiff or an employee of the business. For principles of preclusion and duplicative litigation to apply, it is "well settled in this circuit that literal privity is not a requirement." *Monahan v. New York City Dep't of Corrections*, 214 F.3d 275, 285 (2d Cir. 2000). Rather, it is necessary only that a party's "interests were adequately represented by another vested with the authority of representation" in the prior litigation. *Alpert's Newspaper Delivery, Inc. v. The New York Times*

Co., 876 F.2d 266, 270 (2d Cir.1989). Ren's interests were clearly represented in the virtually identical *Wang I* litigation, which asserted wage-and-hour claims against the restaurant business where Plaintiff worked and its owners and managers, including Ren's wife. That Plaintiff failed to seek to amend the complaint in *Wang I* in a timely manner to add Defendant Ren does not give him the opportunity to get a second bite at the apple in a new lawsuit.

IV. Conclusion

For the foregoing reasons, Plaintiff's motion for reconsideration is DENIED. The Clerk of Court is directed to close the motion at ECF No. 36.

SO ORDERED.

Dated: February 15, 2022
New York, New York

J. PAUL OETKEN
United States District Judge